

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL NOTE

HB 328 – SB 1319

March 5, 2017

SUMMARY OF BILL: Revises statutes of limitations for the filing of Medicaid estate recovery claims by the Bureau of TennCare (Bureau) when a notice to creditors is provided within specific timeframes, and if a notice to creditors is not provided to the Bureau before the end of 12 months from the decedent's date of death, the Bureau must file a petition to open the decedent's estate as a creditor and file a claim for recovery before the end of 36 months from the decedent's date of death. If no claim is filed by the Bureau before the end of 36 months from the decedent's date of death, a claim for recovery is forever barred.

ESTIMATED FISCAL IMPACT:

Decrease State Revenue - \$141,700

Assumptions:

- Based on information provided by the Bureau, for notices provided within six months of the date of the decedent's death, the Bureau will still be required to file a claim within four months pursuant to Tenn. Code Ann. § 30-2-306.
- For notices provided within six to twelve months of the date of the decedent's death, extending the time allowed for the Bureau to file a claim will not have a significant impact on estate recovery claims due to the current requirement to file a claim within four months of receipt.
- If a notice to creditors is not provided to the Bureau before the end of twelve months from the decedent's date of death, the Bureau must file a petition to open the decedent's estate as a creditor and file a claim for recovery before the end of 36 months from the decedent's death.
- The proposed legislation would bar any claims for estate recovery that are not filed within 36 months of the decedent's date of death.
- The total cost recovered from estates in 2016 was \$21,890,096. Between the two-month time-period of December 2016 to January 2017, there were at least five estate recovery cases after 36 months from the date of death. The total cost recovered from the decedent's estates was \$102,000. The average cost recovered per case is estimated to be \$20,400 (\$102,000 / 5). It is estimated that the average number of such cases is 30 per year [5 estate cases x (12 months / 2-month period)].
- In 2017, the total annual cost recovered from decedent's estates on such cases is estimated to be \$612,000 (\$20,400 x 30 cases).

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- For 2016, it is estimated that 2.80 percent ($\$612,000 / \$21,890,096$) of estate recovery cases took place after 36 months from the date of death.
- Based on information provided by the Bureau, the five-year average of estate recovery cases is estimated to be \$14,718,281.
- The average annual cost currently recovered from decedent's estates on cases that may not be recovered as a result of this bill is estimated to be \$412,112 ($\$14,718,281 \times 2.80\%$).
- The state portion of the recovery is based on the current federal medical assistance percentages (FMAP) received by the state. For FY17-18, the federal match rate is 65.605 percent resulting in 34.395 percent being state funds. The state is able to retain its portion of the recovery.
- The recurring decrease in state revenue collected from estate recoveries is estimated to be \$141,746 ($\$412,112 \times 0.34395$).

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



Krista M. Lee, Executive Director

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